

**HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.2797 OF 2005.

Shri Balu Dada Mane & Anr. ...Applicants.

V/s.

The State of Maharashtra. ...Respondent

Shri Umesh Mankapure, for applicants.

Shri K.V.Saste, APP for respondent.

**CORAM: A.M.KHANWILKAR, J
DATE : MAY 2, 2005**

P.C. :-

1. Heard counsel for the parties.

2. Present application for bail is by Accused No.3 and 4. In so far as the present applicants are concerned, it is seen that the original complaint registered does not name them. On the other hand, it is stated that unknown persons committed the crime. Much later, the applicants have been named as the assailants by one of the witnesses. Moreover, no identification parade has been held. However, the same witness, in his statement under section 164 Cr.P.Code has not named the applicants as the assailants, but has stated that some unknown persons assaulted the

deceased. No motive is attributed, in so far as the applicants are concerned, nor any recovery is made. The only material that the learned APP pressed into service against the applicants is the statement of the co-accused implicating the applicants herein. It is however, fairly accepted that the said statement of co-accused is before the police and is not a confessional statement. In that case, it has no evidentiary value. There are no antecedents against the present applicants. Investigation is completed. Accordingly the applicants are entitled to release on bail on following conditions.

(i) Applicants are directed to be released on bail in connection with the C.R.no. 7 of 2005 registered with Miraj Rural Police Station on executing personal bond in the sum of Rs. 15,000/-(Rs.fifteen thousand) each with one or two sureties in like amount.

(ii) The applicant shall not influence any prosecution witness nor tamper with any prosecution evidence in any manner, whatsoever.

(iii) The applicant shall co-operate for early disposal of the trial as condition for bail. In

the event, the trial court is of the opinion, that applicants are responsible for delay in trial, that fact can be recorded in roznama and the same can be the basis for cancellation of bail.